

# **COUNTY OF YORK**

## **MEMORANDUM**

**DATE:** August 19, 2003 (BOS Mtg. 9/2/03)

**TO:** York County Board of Supervisors

**FROM:** James O. McReynolds, County Administrator

**SUBJECT:** Application No. UP-540-98, George Nice and Sons, Inc.

### **ISSUE**

This application requests a minor modification of a Special Use Permit, pursuant to Section 24.1-115(d)(2) of the York County Zoning Ordinance, to authorize a six-month extension of the expiration date of a use permit for a small contracting business with outdoor vehicle/equipment storage operated as a home occupation on a 100-acre parcel located at 143 Skimino Road. The property is zoned RR-Rural Residential and is further identified as Assessor's Parcel No. 3-(1)-B.

### **BACKGROUND**

On January 20, 1999, the Board approved an application for a Special Use Permit to authorize the continued operation of the George Nice and Sons, Inc. contracting business as a home occupation, in accordance with the terms of Section 24.1-283 of the Zoning Ordinance. In addition, the Special Use Permit authorized the home occupation to include non-resident employees. The Special Use Permit authorization (Resolution No. R99-2(R)) granted approval for use of a 9,000 square foot outdoor storage area for vehicles and equipment and set a limit on the number of construction vehicles, heavy equipment and employee's vehicles at twenty four (24). Recognizing that the adjacent property was being developed as the Skimino Landing Estates subdivision and that the contracting business would be incompatible with that residential use, the Board established a term of three (3) years for the use permit. The Board noted its expectation that within that time the applicant would make efforts to relocate the business to a properly zoned commercial or industrial site. However, the use permit approval also contained a clause allowing the Zoning Administrator to authorize up to a two (2) year extension on the term if satisfied that the applicant was making substantial progress to relocate. Based on documentation of relocation efforts provided in 2001, and considering that there had been no complaints from the surrounding residential areas about the applicant's operation, this two-year extension was granted. The Special Use Permit is now set to expire on January 19, 2004 and the applicant has requested a six-month extension to allow the relocation to be completed (see attached letter dated August 7, 2003 from Ray Nice).

### **CONSIDERATIONS**

1. Section 24.1-115(d)(2) of the Zoning Ordinance states that the Board may approve minor modifications to the conditions of an approved and currently valid special use without a public hearing provided that the following four criteria are met:

- There will be less than a 25% increase in either total lot coverage or floor area;
- There will be no detrimental impact on any adjacent property caused by significant change in the appearance or the use of the property or any other contributing factor;
- Nothing in the currently valid special use permit precludes or limits such expansion or enlargement;
- The proposal is consistent with the Zoning Ordinance and the Comprehensive Plan.

This request meets these criteria and is therefore being processed as a minor amendment. Such amendments do not require prior review by the Planning Commission.

2. Since approval of the Special Use Permit in 1999, the applicant has faithfully and diligently complied with the various conditions, including the limitations on the storage area, numbers of vehicles, buffering and the pursuit of a site for relocation. As noted above, there have been no complaints from the adjoining residential areas concerning the applicant's operation. Despite his diligent efforts and those of the Office of Economic Development, the applicant was unable to locate a suitably zoned site in York County and, instead, is in the process of developing a site in James City County. Completion of the improvements at that site has taken longer than expected for various reasons (weather, etc.), which has prompted the applicant to request the six-month extension.

### **RECOMMENDATION**

The applicant has shown good faith and diligence in his efforts to comply with all conditions of the 1999 Special Use Permit. There have been no complaints about the operation and I would not anticipate any during a six-month extension period. Therefore, I recommend that the applicant's request be approved. This may be accomplished through the adoption of proposed Resolution No. R03-145, thus making the use permit valid until July 20, 2004.

Carter/3337

Attachments

- Vicinity Map
- Resolution No. R99-2(R)
- Letter from Ray Nice dated August 7, 2003
- Proposed Resolution No. R03-145